

**IN THE UNITED STATES DISTRICT COURT WITHIN AND FOR THE NORTHERN
DISTRICT OF OKLAHOMA**

Wesley Lewis,

Plaintiff,

versus

**The American Electric Power
System Comprehensive Medical Plan;
American Electric Power Service Corporation,
and;
Community Insurance Company,**

Defendants.

CASE No. 22-CV-264-GKF-SH

**DEFENDANT COMMUNITY INSURANCE COMPANY’S MOTION FOR LEAVE TO
FILE ADMINISTRATIVE RECORD UNDER SEAL**

Defendant Community Insurance Company dba Anthem Blue Cross and Blue Shield (“Anthem”), improperly identified as Anthem Health Plans, Inc. dba Anthem Blue Cross and Blue Shield, files its Motion for Leave to File Administrative Record Under Seal pursuant to Rule 5.2(e) of the Federal Rules of Civil Procedure and LCvR5.2-2 as follows:

1. This action involves a claim to recover benefits under a health insurance policy governed by the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1001-1461 (“ERISA”).

2. In the course of administering benefits, Anthem compiled and/or considered documents that are part of the Administrative Record in this case. The Administrative Record contains documents that are confidential and information which should not be made publicly known concerning the Plaintiff and third parties, including but not limited to, “Protected Health Information” as defined by 45 C.F.R. § 160.103, and other information protected by the Health Insurance Portability and Accountability Act (“HIPAA”). For example, the Administrative Record includes Plaintiff’s medical records and other communications which contain or reference

Plaintiff's medical history, surgical history, and provider information. *See Eugene S. v. Horizon Blue Cross Blue Shield of N.J.*, 663 F.3d 1124, 1135-36 (10th Cir. 2011) (granting a motion to file medical records and other documents containing personal health information under seal). Further, the Administrative Record contains PHI regarding the Plaintiff's family members—individuals who are not parties to this action. The Administrative Record also contains various documents reflecting Anthem's internal systems and guidelines which are not made available to the public. Indeed, administrative records are routinely permitted to be filed under seal in other ERISA matters. *See Mary D. v. Anthem Blue Cross Blue Shield*, 778 F. App'x 580, 582 n.1 (10th Cir. 2019); *Menge v. AT&T, Inc.*, 595 F. App'x 811, 816 (10th Cir. 2014); *Benson v. Hartford Life & Accident Ins. Co.*, 511 F. App'x 680, 687 (10th Cir. 2013).

3. Accordingly, there is good cause to maintain the complete Administrative Record under seal. Anthem contends that there is no less restrictive alternative to sealing that will afford adequate protection, as the aforementioned documents are contained and referenced throughout the Administrative Record. Moreover, because the Plaintiff's name is listed throughout the pleadings, much of the administrative record is considered PHI and filing a redacted public version would be cumbersome and time-consuming. *See Fed. R. Civ. P. 5.2(d)* ("The court may order that a filing be made under seal without redaction.").

4. Anthem respectfully requests that this Court permit it to file the Administrative Record under seal as to prevent the public disclosure of personal and confidential information as permitted by the authorities set forth above, without filing a separate, public and redacted version of the same.

5. Counsel for Anthem has conferred with counsel for Plaintiff and counsel for American Electric Power System Comprehensive Medical Plan and American Electric Power

Service Corporation (collectively, “AEP”) regarding this Motion. Counsel for Plaintiff contends that his client is opposed to the requested relief. Counsel for AEP has represented that his clients are unopposed to the requested relief.

6. Plaintiff’s counsel and AEP’s counsel are being provided with a complete copy of the Administrative Record contemporaneously with the filing of this Motion.

7. This Motion is not interposed for the purposes of delay, and no prejudice will result from granting this Motion.

WHEREFORE Defendant Community Insurance Company respectfully requests that this Court enter an order permitting the filing of the Administrative Record under seal, and for all other proper relief.

Respectfully submitted,

By: /s/ Elizabeth P. Wroblewski
Christopher B. Woods, OBA No. 18881
KINGWOODS, PLLC
20 East 5th Street, Suite 105
Tulsa, OK 74103
Telephone: (918) 398-7186
Facsimile: (918) 398-6158

-And-

Thomas F. A. Hetherington*
Oklahoma Bar No. 30791
Texas Bar No. 24007359
Elizabeth P. Wroblewski*
Texas Bar No. 24115966
MCDOWELL HETHERINGTON LLP
1001 Fannin Street, Suite 2700
Houston, Texas 77002
Telephone: (713) 337-5580
Facsimile: (713) 337-8850
Email: Tom.Hetherington@mhllp.com
Email: Elizabeth.Wroblewski@mhllp.com

*Admitted Pro Hac Vice

**ATTORNEYS FOR DEFENDANT
COMMUNITY INSURANCE COMPANY**

CERTIFICATE OF SERVICE

I hereby certify that on September 14, 2022, a true and correct copy of the foregoing document was transmitted to the Court Clerk using the ECF System for filing, which will transmit a Notice of Electronic Filing to the following ECF registrants:

Jon E. Brightmire
Two West Second Street, Suite 700
Tulsa, OK 74103-3117

James W. Dunham, Jr.
2800 Bank of America Center
15 West 6th Street
Tulsa, OK 74119

/s/ Elizabeth P. Wroblewski
Elizabeth P. Wroblewski